

DOCKET NO: 328255US0PCT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
RAINER WALDMANN, ET AL : EXAMINER: BASI
SERIAL NO: 09/129,758 :
FILED: AUGUST 5, 1998 : GROUP ART UNIT: 1646
FOR: MAMMAL NEURONAL ACI :
SENSING CATIONIC CHANNEL,
CLONING AND APPLICATIONS
THEREOF

37 CFR 1.137(b) PETITION TO REVIVE

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

On April 9, 2010, the undersigned received a telephone call from Mr. Boris Miles of the USPTO PCT Legal Office. During this conversation, the undersigned was advised that the above-identified application was filed on August 5, 1998 as a National Stage application of PCT/FR98/00270 which was filed February 11, 1998. The filing on August 5, 1998 was not accompanied by the requisite basic statutory fees.

On August 28, 1998, the USPTO mailed a Notice to file Missing Parts including, amongst other requirements, the payment of the basic filing fee (attached).

On February 1, 1999, a reply to this Notice was filed including, amongst other papers, a check to pay the basic statutory basic filing fee, the additional claim fees, the surcharge, payment for the statutory assignment filing fee, and the fee for a three months extension of time (see attached).

Since that time, the USPTO and the Applicants through different attorneys-of-record have been engaged in prosecution seeking allowable subject matter.

37 CFR 1.137(B) Petition to Revive

In the April 8, 2010 discussion, Mr. Miles of the USPTO PCT Legal Office informed the undersigned that the rules in effect at that time, and in particular 37 C.F.R. 1.494, required that the payment of the basic statutory fees must be filed within a prescribed period of time and that time expired on October 11, 1998. Therefore, Mr. Miles informed the undersigned that the application has been effectively abandoned since the October 11, 1998 date as the fees were not paid in time.

While the undersigned attorney-of-record was not the attorney at that time, in light of the fact that all parties involved were under the belief that the file was in order, the required fees were paid, and prosecution of the claims commenced and that the undersigned has confirmed with the Applicants that there never was an intention to abandon this application, Applicants request revival of the above-identified application on the basis that the abandonment was unintentional. Although the date in question was some time ago, as the abandoned status was just made aware to the Applicants on April 8, 2010, the entire delay in filing of this a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The requisite fee for processing this petition as set forth in §1.17(m) is attached. Any further fees necessary to process this request may be charged to the deposit account associated with the Customer Number noted below.

Application No. 09/129,758
37 CFR 1.137(B) Petition to Revive

In view of the foregoing, Applicants request grant of this petition and this application should be returned to active status without delay.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Daniel J. Pereira, Ph.D.
Attorney of Record
Registration No. 45,518

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/07)

1382171_1.DOC



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO./TITLE
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09/129,758 08/05/98 WALDMANN

R 989,741F

08/42/0931

GERARD J. WEISER
WEISER & ASSOCIATE
230 SOUTH 15TH STREET
SUITE 500
PHILADELPHIA PA 19102

NOT ASSIGNED

0000

DATE MAILED:

08/31/98

NOTICE TO FILE MISSING PARTS OF APPLICATION Filing Date Granted

An Application Number and Filing Date have been assigned to this application. The items indicated below, however, are missing. Applicant is given **TWO MONTHS FROM THE DATE OF THIS NOTICE** within which to file all required items and pay fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a). If any of items 1 or 3 through 5 are indicated as missing, the SURCHARGE set forth in 37 CFR 1.16(e) of ☐ \$65.00 for a small entity in compliance with 37 CFR 1.27, or ☒ \$130.00 for a non-small entity, must also be timely submitted in reply to this NOTICE to avoid abandonment.

If all required items on this form are filed within the period set above, the total amount owed by applicant as a ☒ small entity (statement filed) ☐ non-small entity is \$ 340.00.

☒ 1. The statutory basic filing fee is:

- ☐ missing.
☒ insufficient.

Applicant must submit \$ 340.00 to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).

☐ 2. Additional claim fees of \$ _____, including any multiple dependent claim fees, are required.

\$ _____ for _____ independent claims over 3.

\$ _____ for _____ dependent claims over 20.

\$ _____ for multiple dependent claim surcharge.

Applicant must either submit the additional claim fees or cancel additional claims for which fees are due.

☒ 3. The oath or declaration:

- ☒ is missing or unexecuted.
☐ does not cover the newly submitted items.
☐ does not identify the application to which it applies.
☐ does not include the city and state or foreign country of applicant's residence.

An oath or declaration in compliance with 37 CFR 1.63, including residence information and identifying the application by the above Application Number and Filing Date is required.

☐ 4. The signature(s) to the oath or declaration is/are by a person other than inventor or person qualified under 37 CFR 1.42, 1.43 or 1.47.

A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.

☐ 5. The signature of the following joint inventor(s) is missing from the oath or declaration:

An oath or declaration in compliance with 37 CFR 1.63 listing the names of all inventors and signed by the omitted inventor(s), identifying this application by the above Application Number and Filing Date, is required.

☐ 6. A \$50.00 processing fee is required since your check was returned without payment (37 CFR 1.21(m)).

☐ 7. Your filing receipt was mailed in error because your check was returned without payment.

☐ 8. The application does not comply with the Sequence Rules.

See attached Notice to Comply with Sequence Rules 37 CFR 1.821-1.825."

☒ 9. OTHER: Need English translation

Direct the reply and any questions about this notice to "Attention: Box Missing Parts."

A copy of this notice **MUST** be returned with the reply.

BEST AVAILABLE COPY



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: 989.6701P

In re Application of: Rainer Waldman et al.

Serial No: 09/129,758

Art Unit: Not yet known

Filed: 08/05/98

Examiner: Not yet known

For: MAMMAL NEURONAL ACID SENSING CATIONIC CHANNEL, CLONING AND APPLICATIONS THEREOF

VERIFICATION OF A TRANSLATION

Assistant Commissioner for Patents
Washington, D.C. 20231

I, the below named translator, hereby declare that:

My name and post office address are as stated below;

That I am knowledgeable in the English language and in the language of the

☒ attached document

☐ below identified document

and I believe the attached English translation to be a true and complete translation of this document.

The document for which the attached English translation is being submitted is NOUVEAU CANAL CATIONIQUE NEURONAL DE MAMMIFERE SENSIBLE A L'ACIDITE. SON CLONAGE ET SES APPLICATIONS.

☒ This foreign language document was filed in the PTO on August 5, 1998.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Name of the Translator: Arthur C. Haines
Company Name: ICA Translations
Address: 614 South 8th Street
Philadelphia, PA 19147

Signature of the Translator:

Date: November 27, 1998



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO./TITLE
09/129,758	08/05/98	WALDMANN	R 989,6701F

0242/0931

GERALD J. WEISER
WEISER & ASSOCIATE
230 SOUTH 15TH STREET
SUITE 500
PHILADELPHIA PA 19102

NOT ASSIGNED

0000

DATE MAILED:

08/31/98

NOTICE TO FILE MISSING PARTS OF APPLICATION**Filing Date Granted**

An Application Number and Filing Date have been assigned to this application. The items indicated below, however, are missing. Applicant is given TWO MONTHS FROM THE DATE OF THIS NOTICE within which to file all required items and pay fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a). If any of items 1 or 3 through 5 are indicated as missing, the SURCHARGE set forth in 37 CFR 1.16(e) of ☐ \$65.00 for a small entity in compliance with 37 CFR 1.27, or ☒ \$130.00 for a non-small entity, must also be timely submitted in reply to this NOTICE to avoid abandonment.

If all required items on this form are filed within the period set above, the total amount owed by applicant as a ☐ small entity (statement filed) ☒ non-small entity is \$ 340.00.

- ☒ 1. The statutory basic filing fee is:
- ☐ missing.
 - ☒ insufficient.
- Applicant must submit \$ 340.00 to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).
- ☐ 2. Additional claim fees of \$ _____, including any multiple dependent claim fees, are required.
- \$ _____ for _____ independent claims over 3.
- \$ _____ for _____ dependent claims over 20.
- \$ _____ for multiple dependent claim surcharge.
- Applicant must either submit the additional claim fees or cancel additional claims for which fees are due.
- ☒ 3. The oath or declaration:
- ☒ is missing or unexecuted.
 - ☐ does not cover the newly submitted items.
 - ☐ does not identify the application to which it applies.
 - ☐ does not include the city and state or foreign country of applicant's residence.
- An oath or declaration in compliance with 37 CFR 1.63, including residence information and identifying the application by the above Application Number and Filing Date is required.
- ☐ 4. The signature(s) to the oath or declaration is/are by a person other than inventor or person qualified under 37 CFR 1.42, 1.43 or 1.47.
- A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- ☐ 5. The signature of the following joint inventor(s) is missing from the oath or declaration:

An oath or declaration in compliance with 37 CFR 1.63 listing the names of all inventors and signed by the omitted inventor(s), identifying this application by the above Application Number and Filing Date, is required.

- ☐ 6. A \$50.00 processing fee is required since your check was returned without payment (37 CFR 1.21(m)).
- ☐ 7. Your filing receipt was mailed in error because your check was returned without payment.
- ☐ 8. The application does not comply with the Sequence Rules.
- See attached "Notice to Comply with Sequence Rules 37 CFR 1.821-1.825."

☒ 9. OTHER: Need English Translation

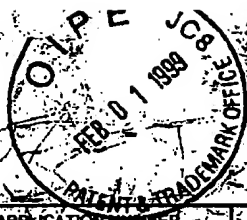
Direct the reply and any questions about this notice to "Attention: Box Missing Parts."

A copy of this notice **MUST** be returned with the reply.

Customer Service Center

Initial Patent Examination Division (703) 308-1202

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UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARK
Washington, D.C. 20231

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO./TITLE
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09/12/97 758

08/05/98

WALDMANN

R

989.6701P

0242/0828

NOT ASSIGNED

WEISER
ASSOCIATE
1515 SOUTH 15TH STREET
SUITE 500
PHILADELPHIA PA 19102

0000

DATE MAILED:

08/28/98

**NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS
CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES**

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 CFR 1.821 - 1.825 for the following reason(s):

- ☐ 1. This application fails to comply with the requirements of 37 CFR 1.821 - 1.825.
- ☐ 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 CFR 1.821(c).
- ☐ 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 CFR 1.821(e).
- ☐ 4. A copy of the "Sequence Listing" in computer readable form has been submitted. The content of the computer readable form, however, does not comply with the requirements of 37 CFR 1.822 and/or 1.832, as indicated on the attached marked-up copy of the "Raw Sequence Listing."
- ☐ 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A substitute computer readable form must be submitted as required by 37 CFR 1.825(d).
- ☐ 6. The paper copy of the "Sequence Listing" is not the same as the computer readable form of the "Sequence Listing" as required by 37 CFR 1.821(e).
- ☒ 7. OTHER: Need English Translation

APPLICANT MUST PROVIDE:

- ☒ An initial or substitute computer readable form (CRF) copy of the "Sequence Listing."
- ☒ An initial or substitute paper copy of the "Sequence Listing," as well as an amendment directing its entry into the specification.
- ☒ A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b) or 1.825(d).

FOR QUESTIONS REGARDING COMPLIANCE WITH THESE REQUIREMENTS, PLEASE CONTACT:

- ☐ For Rules Interpretation, call (703) 308-1123.
- ☐ For CRF submission help, call (703) 308-4212.
- ☐ For Patent software help, call (703) 308-6856.

Customer Service Center
1-800-451-5293

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BEST AVAILABLE COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Atty. Docket No: 989.6701B

In re patent application of

Waldmann, Rainer

Serial No. 09/129,758

Filed: August 5, 1998

For: MAMMAL NEURONAL ACID SENSING CATIONIC CHANNEL, CLONING AND APPLICATIONS THEREOF

Handwritten: #16/a
ckh
10-13-99

STATEMENT TO SUPPORT FILING AND SUBMISSION IN
ACCORDANCE WITH 37 C.F.R. §§ 1.821-1.825

Assistant Commissioner for Patents
Washington, D.C. 20231
Box SEQUENCE

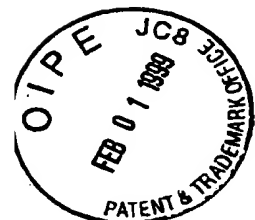
Sir:

In connection with a Sequence Listing submitted concurrently herewith, the undersigned hereby states that:

1. the submission, filed herewith in accordance with 37 C.F.R. § 1.821(g), does not include new matter;

2. the content of the attached paper copy and the attached computer readable copy of the Sequence Listing, submitted in accordance with 37 C.F.R. § 1.821(c) and (e), respectively, are the same; and

3. all statements made herein of their own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United



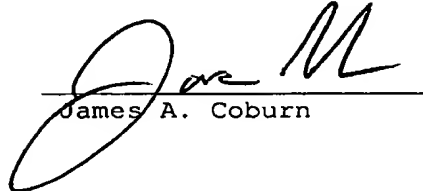
Serial No. 09/129,758

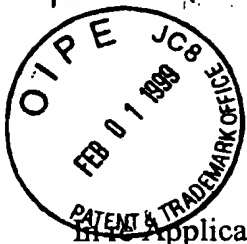
States Code and that such willful false statements may jeopardize the validity of the application or any patent resulting therefrom.

Respectfully submitted,

January 21, 1999
Date

HARBOR CONSULTING
Intellectual Property Services
1500A Lafayette Road
Suite 262
Portsmouth, N.H.
800-318-3021


James A. Coburn



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: 989.6701P

Application of: Rainer Waldman et al.

Serial No: 09/129,758

Art Unit: Not yet known

Filed: 8/5/98

Examiner: Not yet known

For: MAMMAL NEURONAL ACID SENSING CATIONIC CHANNEL, CLONING AND APPLICATIONS THEREOF

**RESPONSE TO NOTICE TO FILE
MISSING PARTS OF APPLICATION
FILING DATE GRANTED**

The Commissioner of Patents and Trademarks
Washington, D.C. 20231

Dear Sir:

In response to the "Notice to File Missing Parts of Application -- Filing Date Granted," mailed from the U.S. Patent and Trademark Office on August 31, 1998, the following are submitted herewith and form a part of this response:

1. A check in the amount of \$380.00 as payment of the statutory basic filing fee, the additional claim fees (\$55.00), the surcharge (\$65.00), (\$40.00) as payment of the statutory assignment filing fee; and (\$435.00) for three-months extension of time;
2. A copy of Notice to File Missing Parts of Application -- Filing Date Granted;

* * * * *

Certification Under 37 CFR 1.8

Date of Deposit 1/29/99

I hereby certify that this paper or fee is being deposited with the United States Postal Service with sufficient postage as first class mail under 37 CFR 1.8 on the date indicated above and is addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

AW OFFICES
& Associates, P.C.
SUITE 500
3, FIFTEENTH ST.
PHILADELPHIA, PA 19102
(15) 875-8383
FLE (215) 875-4394

Kim Sheehan
(Name of person mailing)

Kim Sheehan
(Signature of person mailing)

3. Combined Declaration and Power of Attorney;
4. Recordation Form Cover Sheet;
5. Assignment;
6. Verified Statement Claiming Small Entity Status;
7. English Translation of application, with Verification of Translation
8. Notice to Comply with Sequence Disclosures
9. Amendment and Submission of Sequence Listing Under 37 CFR §1.821
10. Statement Under 37 CFR §1.821-1.825
11. Print-out copy of Sequence Listing
12. Diskette (containing sequence listing)

The Commissioner is hereby authorized to charge payment of any additional fees required under 37 CFR §§ 1.16 and 1.17 which are associated with this communication or credit any overpayment to Deposit Account No. 23-0813 in the name of Weiser & Associates, P.C.. Two copies of this document is enclosed.

Respectfully submitted,



Gerard J. Weiser
Registration No. 19,763
Attorney for Applicant
Phone: (215) 875-8305 ext. 26

Date: 1/29/99